UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/736,038	HARPER ET AL.
	Examiner	Art Unit	
	Murali K. Dega	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _29 October 2008_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-25_ is/are pending in the application.

    4a) Of the above claim(s) _None_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-25_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1.   The office action responds to the amendment and arguments filed by applicant

on 29 October 2008 in reply to the previous office action on the merits, mailed on 29

May 2008.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Misra et al. (US 6,189,146), hereinafter referred to as Misra, in view of Bergler et al. (US

7,343,297), herein after referred to as Bergler.

4.   With regards to **claim 1**:

5.   Misra discloses a system for controlling the use of a software application on a

plurality of computers, the system comprising: a plurality of computers, each computer

of the plurality of computers capable of running a given software application, a server

having a server store, communication channels respectively permitting communication

between each computer of the plurality of computers and the server, and a transaction

arrangement operable respectively between each computer of the plurality of the

computers and the server via the communication channels for enabling a predetermined

use of the given software application by each computer of the plurality of computers,

wherein the server controls the predetermined use of the given software application by

one computer of the plurality of computers according to conditions stored in the server

store, wherein the given software application and the one computer are identifiable by

the server using a license, and wherein the license is returnable by the one computer to

the server for use by another computer of the plurality of computers. (Abstract, figs. 3, 4,

5, 6, 7 and 8, col. 2, ll. 32-47, where a licensing server, multiple clients and use of

standard communication methods are provided). Misra does not explicitly disclose

licenses being returned by the computer to the server. However, Bergler teaches

licenses being returned (Abstract, "automatically returned to the license server's

available pool", ¶ [0025]) to the license pool as part of license management by the

server to assure the license availability to other computers in the network.

6.   Therefore, it would have been obvious to one of ordinary skill in the art, at the

time of the invention, to have modified the method of Misra, so as to have included the

step of returning the license that is not required by the computer, to the server, in

accordance with Bergler, to ensure availability of licenses to other computers and thus

reducing the cost of multiple licenses through usage optimization by returning the

license by the one computer if he license is not being used.

7.   With respect to **claim 2**:

8.   Misra discloses wherein the transaction arrangement determining access of each

computer of the plurality of computers to the given software application (Fig. 1, col. 6, ll.

21-30 and col. 8, ll.60-67, a license server distributing licenses and the client using the

license to gain access to other applications is provided).

9.   With respect to **claim 3**:

10.   Misra discloses wherein the transaction arrangement determining parameters of

operation for the given software application (Abstract, col. 2, ll.62-76, col. 3, ll.8-15 and

col. 4, ll.49-58, in which an automatic mechanism for obtaining license, license server

determining the appropriate type of license for the client and the license server checking

the client status is described).

11.   With respect to **claim 4**:

12.   Misra discloses wherein the server controlling the number of the plurality of

computers authorized to run the given software application (Fig. 3, col. 7, table 1 and

col. 10, ll. 51-59, where in the server keeps track of clients receiving licenses).

13.   With respect **claim 5**:

14.   Misra discloses wherein the software application comprises a computer program

operable under the license, and wherein the transaction arrangement comprises a

license management system for verifying the availability for each computer of the

plurality of computers of the license for the computer program (Fig. 3, col. 8, ll. 35-52

and col.12, ll. 8-27, the license management system is described).

15.   With respect to **claim 6**:

16.   Misra discloses wherein the license management system controls license rights

available under the license, and configures each computer of the plurality of computers

to operate according to the license rights (Abstract, col. 3, ll. 8-15, col. 10, ll. 30-37 and

col. 10, ll. 45-50 , a rights management and a system to configure clients operating

system is provided).

17.   With respect to **claim 7**:

18.   Misra discloses wherein the license management system stores therein different

possible license rights available under the license, selects a license right of the license

rights from the server store, and activates the license right for each compute of the

plurality of computers (Abstract, fig. 3, col. 3, ll. 16-26 and col. 6, ll. 50-64, where license

information storing and managing is described).

19.   With respect to **claim 8**:

20.   Misra discloses wherein the each computer of the plurality of computers stores

details of the license rights and updates details on use of the computer program

(Abstract, fig. 3, col. 3, ll. 16-26 and col. 6, ll. 50-64, where license information storing

and managing is described).

21.   With respect to **claim 9**:

22.   Misra discloses wherein the license management system transfers the license

from one computer of the plurality of computers to another computer of the plurality of

computers (Abstract, fig. 3, col. 11, ll. 36-45 and col. 2, ll32-47, a regular communication

between clients and license server being facilitated).

23.   With respect to **claim 10**:

24.   Misra discloses wherein the license management system inhibits operation of the

computer program on the one computer following the transfer (Abstract, fig. 3, col. 11, ll.

36-45, col. 2, ll32-47 and col. 3, ll. 16-26, a method to prevent unauthorized usage is provided).

25.   With respect to **claim 11**:

26.   Misra discloses a license management system for controlling the use of a given software application respectively on a plurality of computers, the license management system comprising:

- an application store associated with each computer of the plurality of computers for storing a copy of the given software application (Abstract, fig. 3, col. 3, ll. 16-26 and col. 6, ll. 50-64, where license information storing and managing is described).

- a license store for storing information concerning a license to operate the given software application, wherein the given software application comprises a computer program operable under the license (Abstract, fig. 3, col. 3, ll. 16-26 and col. 6, ll. 50-64, where license information storing and managing is described).

- a software identification store for storing identification information relating the given software application (Abstract, fig. 3, col. 3, ll. 16-26 and col. 6, ll. 50-64, where license information storing and managing is described).

- a computer identification store for storing identification information relating to each computer of the plurality of computers (Abstract, fig. 3, col. 3, ll. 16-26 and col. 6, ll. 50-64, where license information storing and managing is described).

- a transaction arrangement operatively linking the application store, the

  license store, the software identification store and the computer

  identification store, the transaction arrangement being responsive to a

  request from a one computer of the plurality of computers for use of the

  given software application to verify whether the given software application

  is available for use the one computer of the plurality of computers and to

  transmit to the one computer the license to use the given software

  application in the event that the given software application is so available

  wherein the license is returnable by the one computer to the server for use

  by another computer of the plurality of computers (Abstract, fig. 3, col. 3, ll.

  16-26 and col. 6, ll. 50-64, where license information storing and

  managing is described).

- Misra does not explicitly disclose licenses being returned by the computer

  to the server. However, Bergler teaches licenses being returned (Abstract,

  "automatically returned to the license server's available pool", ¶ [0025]) to

  the license pool as part of license management by the server to assure

  the license availability to other computers in the network.

- Therefore, it would have been obvious to one of ordinary skill in the art, at

  the time of the invention, to have modified the method of Misra, so as to

  have included the step of returning the license that is not required by the

  computer, to the server, in accordance with Bergler, to ensure availability

  of licenses to other computers and thus reducing the cost of multiple

licenses through usage optimization by returning the license by the one

computer if he license is not being used.

27.   With respect to **claim 12**:

28.   Misra discloses a server providing the license store, the software identification

store and the computer identification store (Abstract and fig. 3, where a server that

stores license information is described).

29.   With respect to **claim 13**:

30.   Misra discloses wherein the server controls the number of licenses available for

the given software application (Fig. 3, col. 7, table 1 and col. 10, ll. 51-59, where in the

server keeps track of clients receiving licenses).

31.   With respect to **claim 14**:

32.   Misra discloses wherein server transfers a license from one computer of the

plurality of computers to another computer of the plurality of computers (Abstract, figs. 3

and 4)

33.   With respect to **claim 15**:

34.   Misra discloses wherein the server inhibits operation of the computer program on

the one computer following the transfer (Abstract, fig. 3, col. 11, ll. 36-45, col. 2, ll32-47

and col. 3, ll. 16-26, a method to prevent unauthorized usage is provided).

35.   With respect to **claim 16**:

36.   Misra discloses further comprising a license store provided at each computer of

the plurality of computers for storing locally information concerning the license (Abstract

and col. 3, ll. 22-25).

37.   With respect to **claim 17**:

38.   Misra discloses parameters of operation for the given software application
(Abstract, col. 2, ll.62-76, col. 3, ll.8-15 and col. 4, ll.49-58, in which an automatic
mechanism for obtaining license, license server determining the appropriate type of
license for the client and the license server checking the client status is described).

39.   With respect to **claim 18**:

40.   Misra discloses wherein the transaction arrangement verifies license rights
available under the license (Fig. 3 and 5, col. 8, ll. 35-52, col.12, ll. 8-27, col. 13, ll. 65-
67 and col. 14, ll. 1-21, the license management system is described).

41.   With respect to **claim 19**:

42.   Misra discloses license store having a data store for storing therein different
possible license rights available under the license, and wherein the transaction
arrangement selects a license right of the license rights and activates the license right
for each computer of the plurality of computers (Abstract, fig. 3 and 4, col. 8, ll. 35-67
and col.12, ll. 8-27, the license management system is described along with selection
and activation of the said licenses).

43.   With respect to **claim 20**:

44.   Misra discloses wherein each computer of the plurality of computers stores
details of the license right, and updates the license rights according to the current state
of the license right on use of the computer program (Abstract, fig. 3 and 4, col. 8, ll. 35-
67 and col.12, ll. 8-27, the license management system is described along with
selection and activation of the said licenses).

45.   With respect to **claim 21**:

46.   Misra discloses a computer of plurality of computers programmed to perform a

transaction for enabling the operation of a given software application, the transaction

comprising:

- Creating a license file for a license to operate the given software

    application, wherein the license is returnable by one computer of the

    plurality of computers to the server for use by another computer of the

    plurality of computers (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and

    col. 7, ll. 13-20 where in the client functions are described and as well as

    encryption is provided).

- Assigning to the license file a serial number representing the given

    software application (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and

    col. 7, ll. 13-20 where in the client functions are described and as well as

    encryption is provided).

- Assigning to the license file an identification code representing the

    computer (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and col. 7, ll.

    13-20 where in the client functions are described and as well as

    encryption is provided).

- Transmitting to a server a request to execute the given software

    application (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and col. 7, ll.

    13-20 where in the client functions are described and as well as

    encryption is provided).

- The request including the serial number and the identification code; in response to a reply from the server updating the license file with information concerning the availability of the license; and reading the license file for establishing whether the given software application can be executed (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and col. 7, ll. 13-20 where in the client functions are described and as well as encryption is provided).

- Misra does not explicitly disclose licenses being returned by the computer to the server. However, Bergler teaches licenses being returned (Abstract, "automatically returned to the license server's available pool", ¶ [0025]) to the license pool as part of license management by the server to assure the license availability to other computers in the network.

- Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Misra, so as to have included the step of returning the license that is not required by the computer, to the server, in accordance with Bergler, to ensure availability of licenses to other computers and thus reducing the cost of multiple licenses through usage optimization by returning the license by the one computer if he license is not being used.

47.   With respect to **claim 22**:

48.   Misra discloses wherein the transaction further comprises: in response to reply from the server updating the license file with details of license rights transmitted from

the server; and configuring the computer according to the license rights to execute a

predetermined software feature incorporated in the given software application (Abstract

and col. 11, ll. 25-45, a license granting process is described).

49.   With respect to **claim 23**:

50.   Misra discloses a method for controlling the execution of a given software

application in a computer system, the computer system including a server and a

plurality of computers, the method comprising:

- Creating a license file on one computer of the plurality of computers for a

  license to operate the given software application wherein the license is

  returnable by the one computer to the server for use by another computer

  of the plurality of computers (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-

  47 and col. 7, ll. 13-20 where in the client functions are described and as

  well as encryption is provided).

- License assigning to the license file an identification code representing the

  one computer (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and col. 7,

  ll. 13-20 where in the client functions are described and as well as

  encryption is provided).

- Formulating a request to execute the given software application at the

  computer, the request including a serial number associated with the given

  software application and an identification code of the one computer

  (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and col. 7, ll. 13-20 where

  in the client functions are described and as well as encryption is provided).

- Transmitting the request with the serial number and the identification code to the server; in response to a reply from the server updating the license file with information concerning the availability of the license; and reading the license file for establishing the status of the license at the one computer (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and col. 7, ll. 13-20 where in the client functions are described and as well as encryption is provided).

- Misra does not explicitly disclose licenses being returned by the computer to the server. However, Bergler teaches licenses being returned (Abstract, "automatically returned to the license server's available pool", ¶ [0025]) to the license pool as part of license management by the server to assure the license availability to other computers in the network.

- Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Misra, so as to have included the step of returning the license that is not required by the computer, to the server, in accordance with Bergler, to ensure availability of licenses to other computers and thus reducing the cost of multiple licenses through usage optimization by returning the license by the one computer if he license is not being used.

51.   With respect to **claim 24**:

52.   Misra discloses storing at the server information concerning license rights available under the license; in response to the request from the one computer selecting

license rights to be applied to the one computer and transmitting details of the selected

rights to the one computer; in response to the reply from the server updating the license

file with details of the selected license rights transmitted from the server; and

configuring the one computer according to the selected license rights to execute a

predetermined software feature incorporated in the given software application (Abstract,

tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and col. 7, ll. 13-20 where in the client functions

are described and as well as encryption is provided).

53.   With respect to **claim 25**:

54.   Misra discloses updating the license file on an ongoing basis during use of the

predetermined feature by the one computer to record a current state of the license; and

when the license is no longer required transmitting details from the updated license file

of the current state to the server (Abstract, tables 1, 2, 3, 4 and 5, col. 2, ll. 37-47 and

col. 7, ll. 13-20 where in the client functions are described and as well as encryption is

provided).

Examiner Note

55.   The Examiner has cited particular columns and line numbers in the references as

applied to the claims above for the convenience of the Applicant. Although the specified

citations are representative of the teachings in the art and are applied to the specific

limitations within the individual claim, other passages and figures may be applied as

well. It is respectfully requested from the Applicant, in preparing responses, to fully

consider the references in their entirety as potentially teaching all or part of the claimed

invention as well as the context of the passage as taught by the prior art or disclosed by

the Examiner.

Response to Arguments

56.   Applicant's arguments with respect to claims 1-25 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

57.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

- All additional references cited relate to various license management and

    distribution systems that are at least generally applicable to the disclosed

    invention.

58.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Murali K. Dega whose telephone number is (571)270-

5394. The examiner can normally be reached on Monday to Thursday 7.30 to 4.00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew J. Fischer can be reached on (571)272-6779. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. K. D./
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621